

AN ACT

RELATING TO BORDER AFFAIRS; AMENDING THE BORDER DEVELOPMENT ACT
TO PROVIDE MORE AUTONOMY TO THE BORDER AUTHORITY AND TO CLARIFY
THE DUTIES AND AUTHORITY OF THE BORDER AUTHORITY; AMENDING SECTIONS
AND REPEALING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 58-27-4 NMSA 1978 (being Laws 1991, Chapter 131,
Section 4, as amended) is amended to read:

"58-27-4. BORDER AUTHORITY CREATED--MEMBERSHIP.--

A. The "border authority" is created. The authority is a state agency
and is administratively attached to the economic development department.

B. The authority consists of seven voting members, six of whom shall
be appointed by the governor. No more than three of those appointed shall belong to
the same political party. The seventh member shall be the secretary of economic
development or the secretary's designee. The voting members appointed by the
governor shall be confirmed by the senate. The lieutenant governor shall serve as a
nonvoting ex-officio member. The chair may appoint a nonvoting advisory committee
to provide advice and recommendations on authority matters.

C. The six voting members of the authority appointed by the governor
shall be citizens of the state and shall serve for terms of four years except for the initial
appointees who shall be appointed so that the terms are staggered after initial
appointment. Initial appointees shall serve terms as follows: two members for two
years, two members for three years and two members for four years."

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Section 2. Section 58-27-10 NMSA 1978 (being Laws 1991, Chapter 131, Section 10, as amended) is amended to read:

"58-27-10. POWERS AND DUTIES OF AUTHORITY.--

A. The authority shall:

- (1) advise the governor and his staff and the New Mexico finance authority oversight committee on methods, proposals, programs and initiatives involving the New Mexico-Chihuahua border area that may further stimulate the border economy and provide additional employment opportunities for New Mexico citizens;
- (2) subject to the provisions of the Border Development Act, initiate, develop, acquire, own, construct and maintain border development projects;
- (3) create programs to expand economic opportunities beyond the New Mexico-Chihuahua border area to other areas of the state;
- (4) create avenues of communication between New Mexico and Chihuahua and the Republic of Mexico concerning economic development, trade and commerce, transportation and industrial affairs;
- (5) promote legislation that will further the goals of the authority and development of the border region;
- (6) produce or cause to have produced promotional literature related to explanation and fulfillment of the authority's goals;
- (7) actively recruit industries and establish programs that will result in the location and relocation of new industries in the state;
- (8) coordinate and expedite the involvement of the executive department's border area efforts; and
- (9) perform or cause to be performed environmental,

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transportation, communication, land use and other technical studies necessary or advisable for projects or programs or to secure port-of-entry approval by the United States and the Mexican governments and other appropriate governmental agencies.

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B. The authority may:

(1) solicit and accept federal, state, local and private grants of funds, property or financial or other aid in any form for the purpose of carrying out the provisions of the Border Development Act;

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(2) adopt rules governing the manner in which its business is transacted and the manner in which the powers of the authority are exercised and its duties performed;

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(3) act as an applicant for and operator of port-of-entry facilities and, as the applicant, carry out all tasks and functions, including acquisition by purchase or gift of any real property necessary for port-of-entry facilities, acquisition by purchase, gift or construction of any facilities or other real or personal property necessary for a port of entry and filing all necessary documents and follow-up of such filings with appropriate agencies;

(4) as part of a port of entry, give or transfer real property, facilities and improvements owned by the authority to the United States government;

(5) acquire by construction, purchase, gift or lease projects that shall be located within the state;

(6) sell, lease or otherwise dispose of a project upon terms and conditions acceptable to the authority and in the best interests of the state;

(7) issue revenue bonds and borrow money for the purpose of

defraying the cost of acquiring a project by purchase or construction and to secure the payment of the bonds or repayment of a loan; and

(8) refinance a project.

C. In exercising its authority, the authority shall not:

(1) operate a project as a business or in any manner except as lessor;

(2) incur debt as a general obligation of the state or pledge the full faith and credit of the state to repay debt; or

(3) expend funds or incur debt for the improvement, maintenance, repair or addition to property not owned by the authority."

Section 3. Section 58-27-14 NMSA 1978 (being Laws 1991, Chapter 131, Section 14, as amended) is amended to read:

"58-27-14. AUTHORITY FEES AND CHARGES.--Unless prohibited by law, the authority may fix, alter, charge and collect tolls, fees or rentals and may impose any other charges for the use of or for services rendered by any authority facility, program or service."

Section 4. Section 58-27-16 NMSA 1978 (being Laws 1991, Chapter 131, Section 16, as amended) is amended to read:

"58-27-16. AUTHORITY REVENUE BONDS--TERMS.--

A. Authority revenue bonds:

(1) may have interest, appreciated principal value or any part thereof payable at intervals determined by the authority;

(2) may be subject to prior redemption or mandatory redemption at the authority's option at the time and upon the terms and conditions with

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or without the payment of a premium as may be provided by resolution of the authority;

(3) may mature at any time not exceeding thirty years after the date of issuance;

(4) may be serial in form and maturity or may consist of one or more bonds payable at one time or in installments or may be in such other form as determined by the authority;

(5) may be in registered or bearer form or in book entry form through the facilities of a securities depository either as to principal or interest or both;

(6) shall be sold for cash at, above or below par and at a price that results in a net effective interest rate that conforms to the Public Securities Act; and

(7) may be sold at public or negotiated sale.

B. Subject to the approval of the state board of finance, the authority may enter into other financial arrangements if it determines that the arrangements will assist the authority."

Section 5. Section 58-27-16.1 NMSA 1978 (being Laws 1993, Chapter 335, Section 4, as amended) is amended to read:

"58-27-16.1. AUTHORITY LOANS--TERMS.--If the authority borrows money from a financial institution or other entity:

A. the interest, principal payments or any part thereof shall be payable at intervals as may be determined by the authority;

B. the loan shall mature at any time not exceeding thirty years from the date of origination;

C. the principal amount of the loan shall not exceed the fair market

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value of the real or personal property to be acquired with the proceeds of the loan as evidenced by a certified appraisal in accordance with the Real Estate Appraisers Act; and

D. the loan shall be subject to the approval of the state board of finance."

Section 6. Section 58-27-19 NMSA 1978 (being Laws 1991, Chapter 131, Section 19, as amended) is amended to read:

"58-27-19. REQUIREMENTS RESPECTING RESOLUTION AND LEASE.--

A. Prior to approving a resolution for the issuance of bonds or the closing of a loan for any project, the authority shall determine and find the following in the resolution approving the issuance of the bonds or the closing of the loan:

(1) if the resolution is for the issuance of bonds, the principal and interest of the bonds to be issued shall be fully secured by a lease agreement or installment sale agreement executed by an agency of the United States government, by a state or local public agency or institution, by a corporation organized and operating within the United States, that corporation or the long-term debt of that corporation being rated not less than "A" by a national rating service, or by an irrevocable letter of credit issued by a chartered financial institution approved for this purpose by the state board of finance or by a bond insurance policy issued by an insurance company rated not less than "AA" by a national rating service;

(2) the amount necessary in each year to pay the principal of and the interest on the bonds proposed to be issued or the loan proposed to be obtained to finance the project; and

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(3) the amount necessary to be paid each year into any reserve funds that the governing body may deem advisable to establish in connection with the retirement of the proposed bonds or the repayment of the loan and, in either case, the maintenance of the project. Unless the terms under which the project is to be leased or sold provide that the lessee or purchaser shall maintain the project and carry all proper insurance with respect to the project, the resolution shall set forth the estimated cost of maintaining the project in good repair and keeping it properly insured.

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B. If the resolution is for the issuance of bonds, the determinations and findings of the authority required to be made by this section shall be set forth in the proceedings under which the proposed bonds are to be issued.

C. Prior to the issuance of the bonds or the closing of the loan, the authority may lease or sell the project to a lessee or purchaser under an agreement conditioned upon completion of the project and providing for payment to the authority of such rentals or payments as, upon the basis of determinations and findings pursuant to provisions of Subsection A of this section, will be sufficient to:

(1) pay the principal of and interest on the bonds issued or on the loan to be obtained to finance the project;

(2) build up and maintain any reserve deemed by the authority to be advisable in connection with the financing of the project; and

(3) pay the costs of maintaining the project in good repair and keeping it properly insured, unless the agreement of lease obligates the lessee to pay for the maintenance and insurance of the project.

D. With prior approval of the state board of finance, the authority may

borrow funds to purchase, lease, acquire or develop water rights, a water system or a wastewater collection and treatment system, provided the authority does not obligate itself or the state to any debt or obligation that cannot be paid from revenues derived from the project.

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E. Upon prior approval of the state board of finance, the authority may obtain a commitment from a financial institution to borrow money; provided that closing of the loan and disbursement of the proceeds is conditional upon compliance with the requirements of the Border Development Act. Nothing in this section shall be deemed to authorize the authority to incur any debt obligation of the authority in connection with a loan commitment prior to the closing of the loan."

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Section 7. REPEAL.--Section 58-27-11 NMSA 1978 (being Laws 1991, Chapter 131, Section 11, as amended) is repealed.

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